

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 47, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 34-24-1-1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following
- 4 may be seized:
- 5 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
- 6 intended for use by the person or persons in possession of them to
- 7 transport or in any manner to facilitate the transportation of the
- 8 following:
- 9 (A) A controlled substance for the purpose of committing,
- 10 attempting to commit, or conspiring to commit any of the
- 11 following:
- 12 (i) Dealing in or manufacturing cocaine, a narcotic drug, or
- 13 methamphetamine (IC 35-48-4-1).
- 14 (ii) Dealing in a schedule I, II, or III controlled substance (IC
- 15 35-48-4-2).
- 16 (iii) Dealing in a schedule IV controlled substance (IC
- 17 35-48-4-3).
- 18 (iv) Dealing in a schedule V controlled substance (IC
- 19 35-48-4-4).
- 20 (v) Dealing in a counterfeit substance (IC 35-48-4-5).
- 21 (vi) Possession of cocaine, a narcotic drug, or
- 22 methamphetamine (IC 35-48-4-6).

- 1 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
- 2 (viii) Dealing in marijuana, hash oil, or hashish (IC
- 3 35-48-4-10).
- 4 (B) Any stolen (IC 35-43-4-2) or converted property (IC
- 5 35-43-4-3) if the retail or repurchase value of that property is
- 6 one hundred dollars (\$100) or more.
- 7 (C) Any hazardous waste in violation of IC 13-30-6-6.
- 8 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
- 9 destruction (as defined in IC 35-41-1-29.4) used to commit,
- 10 used in an attempt to commit, or used in a conspiracy to
- 11 commit an offense under IC 35-47 as part of or in furtherance
- 12 of an act of terrorism (as defined by IC 35-41-1-26.5).
- 13 (2) All money, negotiable instruments, securities, weapons,
- 14 communications devices, or any property used to commit, used in
- 15 an attempt to commit, or used in a conspiracy to commit an
- 16 offense under IC 35-47 as part of or in furtherance of an act of
- 17 terrorism or commonly used as consideration for a violation of
- 18 IC 35-48-4 (other than items subject to forfeiture under
- 19 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
- 20 (A) furnished or intended to be furnished by any person in
- 21 exchange for an act that is in violation of a criminal statute;
- 22 (B) used to facilitate any violation of a criminal statute; or
- 23 (C) traceable as proceeds of the violation of a criminal statute.
- 24 (3) Any portion of real or personal property purchased with
- 25 money that is traceable as a proceed of a violation of a criminal
- 26 statute.
- 27 (4) A vehicle that is used by a person to:
- 28 (A) commit, attempt to commit, or conspire to commit;
- 29 (B) facilitate the commission of; or
- 30 (C) escape from the commission of;
- 31 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 32 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 33 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
- 34 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 35 (5) Real property owned by a person who uses it to commit any
- 36 of the following as a Class A felony, a Class B felony, or a Class
- 37 C felony:
- 38 (A) Dealing in or manufacturing cocaine, a narcotic drug, or
- 39 methamphetamine (IC 35-48-4-1).
- 40 (B) Dealing in a schedule I, II, or III controlled substance
- 41 (IC 35-48-4-2).
- 42 (C) Dealing in a schedule IV controlled substance

1 (IC 35-48-4-3).

2 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

3 (6) Equipment and recordings used by a person to commit fraud  
4 under IC 35-43-5-4(11).

5 (7) Recordings sold, rented, transported, or possessed by a person  
6 in violation of IC 24-4-10.

7 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as  
8 defined by IC 35-45-6-1) that is the object of a corrupt business  
9 influence violation (IC 35-45-6-2).

10 (9) Unlawful telecommunications devices (as defined in  
11 IC 35-45-13-6) and plans, instructions, or publications used to  
12 commit an offense under IC 35-45-13.

13 (10) Any equipment used or intended for use in preparing,  
14 photographing, recording, videotaping, digitizing, printing,  
15 copying, or disseminating matter in violation of IC 35-42-4-4.

16 (11) Destructive devices used, possessed, transported, or sold in  
17 violation of IC 35-47.5.

18 (12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes  
19 that a person attempts to sell in violation of IC 24-3-5.2, and other  
20 personal property owned and used by a person to facilitate a  
21 violation of IC 24-3-5.2.

22 (13) Tobacco products that are sold in violation of IC 24-3-5,  
23 tobacco products that a person attempts to sell in violation of  
24 IC 24-3-5, and other personal property owned and used by a  
25 person to facilitate a violation of IC 24-3-5.

26 **(14) Property used by a person to commit counterfeiting or**  
27 **forgery in violation of IC 35-43-5-2.**

28 (b) A vehicle used by any person as a common or contract carrier in  
29 the transaction of business as a common or contract carrier is not  
30 subject to seizure under this section, unless it can be proven by a  
31 preponderance of the evidence that the owner of the vehicle knowingly  
32 permitted the vehicle to be used to engage in conduct that subjects it to  
33 seizure under subsection (a).

34 (c) Equipment under subsection (a)(10) may not be seized unless it  
35 can be proven by a preponderance of the evidence that the owner of the  
36 equipment knowingly permitted the equipment to be used to engage in  
37 conduct that subjects it to seizure under subsection (a)(10).

38 (d) Money, negotiable instruments, securities, weapons,  
39 communications devices, or any property commonly used as  
40 consideration for a violation of IC 35-48-4 found near or on a person  
41 who is committing, attempting to commit, or conspiring to commit any  
42 of the following offenses shall be admitted into evidence in an action

under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 2. IC 35-43-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) A person who with intent to defraud, knowingly or intentionally:**

**(1) makes or utters a written instrument in such a manner that it purports to have been made:**

**(1) (A) by another person;**

**(2) (B) at another time;**

**(3) (C) with different provisions; or**

**(4) (D) by authority of one who did not give authority; or**

**(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:**

**(A) by another person;**

**(B) at another time;**

**(C) with different provisions; or**

**(D) by authority of one who did not give authority;**

commits ~~forgery~~ **counterfeiting**, a ~~Class C~~ **Class D** felony.

**(b) A person who, with intent to defraud, makes, or utters, or possesses a written instrument in such a manner that it purports to have been made:**

**(1) by another person;**

**(2) at another time;**

- 1           (3) with different provisions; or
- 2           (4) by authority of one who did not give authority;
- 3       commits forgery, a Class C felony.  
          (Reference is to SB 47 as introduced.)

**and when so amended that said bill do pass .**

Committee Vote: Yeas 9, Nays 0.

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**Senator Long, Chairperson**